

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WISCONSIN

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BRIAN ARMON DUCKSWORTH,

Plaintiff,

v.

Case No. 24-cv-659-pp

SARAH FELTES,

Defendant.

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**ORDER GRANTING PLAINTIFF'S MOTION TO PAY INITIAL PARTIAL  
APPELLATE FILING FEE FROM RELEASE ACCOUNT (DKT. NO. 20) AND  
GRANTING PLAINTIFF'S MOTION FOR EXTENSION OF TIME TO PAY  
INITIAL PARTIAL APPELLATE FILING FEE (DKT. NO. 21)**

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On September 16, 2024, the court granted plaintiff Brian Armon Ducksworth's motion for leave to proceed on appeal without prepaying the filing fee and ordered him to pay a \$2.59 initial partial appellate filing fee by October 16, 2024. Dkt. No. 18. The plaintiff now seeks a court order allowing him to pay the \$2.59 fee from his release account. Dkt. No. 20. He says he "is indigent" and "does not have enough money in his regular account." Id.

The term "prisoner's account," as used in 28 U.S.C. §1915, "encompasses both [the prisoner's] release account and his general account." Spence v. McCaughtry, 46 F. Supp. 2d 861, 862 (E.D. Wis. 1999). The release account "is a restricted account maintained by the Wisconsin Department of Corrections to be used upon the prisoner's release from custody upon completion of his sentence." Wilson v. Anderson, No. 14-C-798, 2014 WL 3671878, at \*3 (E.D. Wis. July 23, 2014) (citing Wis. Admin. Code §DOC

309.466). Courts in Wisconsin have permitted prisoners to use their release accounts to pay the initial partial filing fee for bringing a lawsuit or filing an appeal. E.g. Doty v. Doyle, 182 F. Supp. 2d 750, 751 (E.D. Wis. 2002); Spence, 46 F. Supp. 2d at 862–63. This applies only to the *initial* partial filing fee and does not apply to the remainder of the filing fee or other litigation costs. See Collins v. State of Wisconsin, No. 20-C-521, 2020 WL 6361860, at \*2 (E.D. Wis. Oct. 29, 2020) (“Although courts often will allow plaintiffs to pay the *initial partial filing fee* with funds from their release account, they generally do not allow plaintiffs to deplete their release accounts by paying the full filing fee from that account.”); McCalla v. Thompson, No. 18-cv-1895, 2019 WL 3220551, at \*2 (E.D. Wis. July 17, 2019) (noting that, absent unusual circumstances, a federal court “lacks the authority—statutory or otherwise—to order that a prisoner may tap into his release account to pay current (or future) litigation costs”).

The court will grant the plaintiff’s request as follows: The plaintiff may use the funds in his release account to pay the \$2.59 initial partial filing fee for his appeal *only* if he does not have sufficient funds in his regular account to pay the full \$2.59 fee. If the plaintiff has any money in his regular account, he must first use that money to pay the initial partial filing fee. He must deplete *all* the funds in his regular account before he may access the money in his release account. The plaintiff should take care to precisely word his disbursement request so that the request complies with this order.

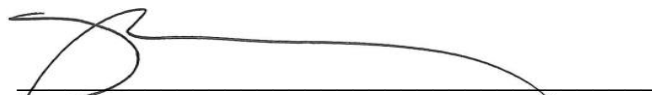
The plaintiff also requests a seven-day extension of time to pay the initial partial appellate filing fee. Dkt. No. 21. He says he “would like to ensure that the Court order” granting his motion to pay the fee from his release account “reaches Oshkosh Correctional’s Business/Finance department in time to meet the above deadline requested.” Id. The court will grant this request and extend the plaintiff’s deadline to pay his initial partial appellate filing fee.

The court **GRANTS** the plaintiff’s motion to pay the initial partial appellate filing fee from his release account. Dkt. No. 20. The plaintiff may use the funds in his release account to pay the \$2.59 fee as explained in this order.

The court **GRANTS** the plaintiff’s motion for an extension of time to pay the \$2.59 initial partial appellate filing fee. The court **ORDERS** that the plaintiff’s deadline to pay that fee is **EXTENDED** until the end of the day on October 23, 2024.

Dated in Milwaukee, Wisconsin this 8th day of October, 2024.

**BY THE COURT:**

A handwritten signature in black ink, appearing to be 'P. Pepper', written over a horizontal line.

**HON. PAMELA PEPPER**  
**United States District Judge**